

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLEN APPLESTEIN, et al.,

Plaintiffs,

-against-

REPUBLIC OF ARGENTINA,

Defendant.

Civil Action No. 02-CV-04124 (TPG)

**DECLARATION OF ANTHONY J.
COSTANTINI IN SUPPORT OF
MOTION FOR TURNOVER ORDER
AGAINST BANK OF NEW YORK
MELLON**

APPLESTEIN,

Plaintiff,

-against-

ARGENTINA REPUBLIC, et al.,

Defendants.

Civil Action No. 02-CV-01773 (TPG)

FRANCESCHI, et al.,

Plaintiffs,

-against-

REP. OF ARGENTINA,

Defendant.

Civil Action No. 03-CV-04693 (TPG)

MAZZINI, et al.,

Plaintiffs,

-against-

THE REPUBLIC OF ARGENTINA,

Defendant.

Civil Action No. 03-CV-08120 (TPG)

<p>MORATA, et al.,</p> <p>Plaintiffs,</p> <p>-against-</p> <p>THE REPUBLIC OF ARGENTINA,</p> <p>Defendant.</p>	Civil Action No. 04-CV-03314 (TPG)
<p>MODES, et al.,</p> <p>Plaintiffs,</p> <p>-against-</p> <p>THE REPUBLIC OF ARGENTINA, et al.</p> <p>Defendants.</p>	Civil Action No. 04-CV-06137 (TPG)
<p>MARIA FAUSTA CILLI, et al.,</p> <p>Plaintiffs,</p> <p>-against-</p> <p>THE REPUBLIC OF ARGENTINA,</p> <p>Defendant.</p>	Civil Action No. 04-CV-06594 (TPG)
<p>ROSA, et al.,</p> <p>Plaintiffs,</p> <p>-against-</p> <p>THE REPUBLIC OF ARGENTINA,</p> <p>Defendant.</p>	Civil Action No. 04-CV-07504 (TPG)
<p>CONSOLINI, et al.,</p> <p>Plaintiffs,</p> <p>-against-</p> <p>THE REPUBLIC OF ARGENTINA,</p> <p>Defendant.</p>	Civil Action No. 05-CV-00177 (TPG)

FERRI, et al.,

Plaintiffs,

-against-

THE REPUBLIC OF ARGENTINA,

Defendant.

Civil Action No. 05-CV-02943 (TPG)

RIGUEIRO, et al.,

Plaintiffs,

-against-

THE REPUBLIC OF ARGENTINA,

Defendant.

Civil Action No. 05-CV-03089 (TPG)

BETTONI, et al.,

Plaintiffs,

-against-

THE REPUBLIC OF ARGENTINA,

Defendant.

Civil Action No. 05-CV-04299 (TPG)

FEDECOSTANTE, et al.,

Plaintiffs,

-against-

REPUBLIC OF ARGENTINA,

Defendant.

Civil Action No. 05-CV-04466 (TPG)

LISI, et al.,

Plaintiffs,

-against-

REPUBLIC OF ARGENTINA,

Defendant.

Civil Action No. 05-CV-06002 (TPG)

ROSSINI, et al., Plaintiffs, -against- REPUBLIC OF ARGENTINA, et al. Defendants.	Civil Action No. 05-CV-06200 (TPG)
KLEIN, et al., Plaintiffs, -against- REPUBLIC OF ARGENTINA, Defendant.	Civil Action No. 05-CV-06599 (TPG)
LOVATI, Plaintiff, -against- REPUBLIC OF ARGENTINA, Defendant.	Civil Action No. 05-CV-08195 (TPG)
BOTTI, et al., Plaintiffs, -against- THE REPUBLIC OF ARGENTINA, et al., Defendants.	Civil Action No. 05-CV-08687 (TPG)
PASQUALI, Plaintiff, -against- REPUBLIC OF ARGENTINA, Defendant.	Civil Action No. 05-CV-10636 (TPG)

BEYER, et al., Plaintiffs, -against- REPUBLIC OF ARGENTINA, Defendant.	Civil Action No. 07-CV-00098 (TPG)
BORGRA, et al., Plaintiffs, -against- REPUBLIC OF ARGENTINA, Defendant.	Civil Action No. 07-CV-05807 (TPG)

I, ANTHONY J. COSTANTINI, pursuant to 28 U.S.C. § 1746(2), declare as follows:

1. I am a member of the law firm of Duane Morris LLP, counsel to Plaintiffs in the above-captioned matters (“Plaintiffs” or “Italian Judgment Creditors”). I respectfully submit this declaration in support of their Motion for an order directing Bank of New York Mellon (“BNY Mellon”) to turn over the \$539 Million held in its possession on behalf of the Republic of Argentina (the “Republic”), or so much as is sufficient to satisfy Plaintiffs’ judgments plus post-judgment interest.

2. Almost all the moving Plaintiffs are Italian citizens who purchased bonds issued by the Republic. Attached hereto as Exhibit A is a chart listing the plaintiffs Duane Morris represents in each of the above-captioned actions.

3. Far from being so-called “vulture funds”—the group of bondholders frequently demonized by the Republic for purchasing their bonds on the secondary market—the Italian Judgment Creditors purchased their bonds at the time of issue and at par value, hoping to benefit from their investment through interest payments and, upon maturity, full repayment of principal.

4. The Italian Judgment Creditors did not purchase their bonds as bets or hedges, but as “secure” investments to fund their retirements.

5. In 2001, the Republic repudiated its obligations on the bonds and the Italian Judgment Creditors have not received any payments on the bonds since.

6. Plaintiffs declined to accept the exchange offers in 2005 and 2010, as was their right, since those offers would have yielded only a small percentage of their actual investments.

7. As a result, the Italian Judgment Creditors were forced to file actions against the Republic with this Court and to seek judgments against the Republic, which this Court has subsequently granted.

8. In *Allan Applestein TTEE FBO D.C.A. Grantor Trust, et al. v. The Republic of Argentina*, 02 Civ. 4124 (TPG), a judgment for \$285,981.30 was entered on December 19, 2003 for plaintiff DCA Grantor Trust, a true and correct copy of which is attached hereto as Exhibit B.

9. In *Franceschi, et al. v. The Republic of Argentina*, 03 Civ. 4693 (TPG), a combined total judgment for \$869,238.42 was entered on January 11, 2007 for plaintiffs Carlotta Giovanni and Raimondo Iallonardo, a true and correct copy of which is attached hereto as Exhibit C.

10. In *Mazzini, et al. v. The Republic of Argentina*, 03 Civ. 08120 (TPG), a judgment for \$100,251.19 was entered on May 22, 2006 for plaintiff Valerio Piacenza, a true and correct copy of which is attached hereto as Exhibit D.

11. In *Morata, et al. v. The Republic of Argentina*, 04 Civ. 3314 (TPG), a combined total judgment for \$32,632,624.55 was entered on January 16, 2007 for plaintiffs Milena Ampalla, Antonella Bacchiocchi, Filippo Bagolin, Giancarlo Bartolomei Corsi, Anneliese Gunda

Becker, Giorgio Bennati, Giorgio Bennati and Carla Morata, Orsolina Berra, Giorgio Bistagnino and Eugenia Re, Stefano Bistagnino and Felicina Gaioli, Andrea Bonazzi and Mirco Masina and Luca Vitali, Stefania Bonpensiere, Marcello Calanca and Elettra Casalini, Bruno Calmasini and Tarcisia Dalbosco, Italia Camato, Vincenzo Carbone, Marco Cavalli and Valeria Toso, Carmelina Censi, Gian Francesco Cercato and Barbara Ricchi, Silvana Corato and Giulia Greggio, Francesco Corso and Giuseppina Corso, Laura Cosci, Aldo David, Antonio De Francesco, Francesco Foggiano, Rinaldo Frisinghelli and Graziella DaCroce, Angiolino Fusato and Gabriele Fusato and Anna Storchi, Maddalena Gaioli and Felicina Gaioli, Francesco Mauro Ghezzi, Francesco Mauro Ghezzi and Maria Luigia Conti, Gianfranco Guarini, Innovamedica S.p.A. (f/k/a MATIVA S.r.l.), Angelo Leoni and Rachele Bontempi, Carmelo Maio, Claudio Mangano and Maritza Lenti, Romano Marton, Mirco Masina and Andrea Bonazzi, Guglielmina Massara and Martino Verna, Alessandro Morata, Maria Rita Moretto and Ugo Lorenzi, Bruno Pappacoda and Luisella Guardincerri, Adriano Rosato, Sante Stefani and Angelina Salmistraro, Studio Legale Bennati, Renate Tielman, Manuelito Toso, Mauro Toso, Mario Vicini, and Mario Vicini and Giuseppina Capezzera, a true and correct copy of which is attached hereto as Exhibit E.

12. In *Modes, et al. v. The Republic of Argentina*, 04 Civ. 06137 (TPG), a combined total judgment in the amounts of \$880,989.54 and €524,272.72 was entered on August 18, 2006 for plaintiffs Graziella Bonadiman, Italia Camato, Salvatore Melchionda, Franco Pezze, and Tiziano Sasselli and Giovanna Ferro, a true and correct copy of which is attached hereto as Exhibit F.

13. In *Maria Fausta Cilli, et al. v. The Republic of Argentina*, 04 Civ. 06594 (TPG), a combined total judgment for \$239,930.31 was entered on May 22, 2006 for plaintiffs Renata

Boscariol and Giampaolo Montino, Maurizio Sergi, Simona Staccioli, a true and correct copy of which is attached hereto as Exhibit G.

14. In *Rosa, et al. v. The Republic of Argentina*, 04 Civ. 7504 (TPG), a combine total judgment for \$2,828,835.21 was entered on May 29, 2007 for plaintiffs Augusto Arcangeli De Felicis, Alberto Compare, Manuela De Rosa Kunderfranco and Giovanna Connena and Antonella De Rosa Kunderfranco, Adriana Dell'Era, Gian Carlo Ganapini and Laura Anna Capurro, Fernanda Angela Lovero and Sabrina Parodi, Paola Rosa, and Licia Stampfli-Rosa, a true and correct copy of which is attached hereto as Exhibit H.

15. In *Consolini, et al. v. The Republic of Argentina*, 05 Civ. 00177 (TPG), a combined total judgment for \$596,046.96 was entered on April 2, 2007 for plaintiffs Agostino Consolini, Cesarino Consolini and Agostino Consolini, Mario Giacometti and Verna Gualandi, Hilda Rupprecht, a true and correct copy of which is attached hereto as Exhibit I.

16. In *Ferri, et al. v. Republic of Argentina*, 05 Civ. 2943 (TPG), a combined total judgment in the amounts of \$1,323,405.33 and €15,009.69 was entered on January 16, 2007 for plaintiffs Gianfranco Agostini, Sara Bartolozzi, Roberto Berardocco, Carlo and Susanna Bretti and Maria Robbiati, Anna Ferri, Giovanni Giardina and Vincenza Sabatelli, and Franco Pezze a true and correct copy of which is attached hereto as Exhibit J.

17. In *Rigueiro, et al. v. Republic of Argentina*, 05 Civ. 03089 (TPG), a combined total judgment for \$9,262,552.34 was entered on January 16, 2007 for plaintiffs Angelo Cottoni and Bruna Mattioli, Allessandra Regoli, Silvia Regoli, Ines Rota, Vito Zancaner, and Matteo and Giovanni Zanichelli, a true and correct copy of which is attached hereto as Exhibit K.

18. In *Bettoni, et al. v. Republic of Argentina*, 05 Civ. 04299 (TPG), a combined total judgment for \$1,408,392.75 was entered on January 16, 2007 for plaintiffs Massimo Bettoni and

Carla Marini Arcangeli De Felicis, a true and correct copy of which is attached hereto as Exhibit L.

19. In *Fedecostante, et al. v. Republic of Argentina*, 05 Civ. 4466 (TPG), a combined total judgment for \$1,987,062.75 was entered on January 11, 2007 for plaintiffs Carifin S.A. and Diego Castagna and Eufrosina De Stefano, a true and correct copy of which is attached hereto as Exhibit M.

20. In *Lisi, et al. v. Republic of Argentina*, 05 Civ. 6002 (TPG), a combined total judgment in the amounts of \$625,725.38 and €37,258.59 was entered on January 16, 2007 for plaintiffs Graziano Adami and Monica Crozzoletto, Celestino Goglia, Paolo Lisi, Elide Margnelli, and Amato Mori, a true and correct copy of which is attached hereto as Exhibit N.

21. In *Rossini, et al. v. Republic of Argentina, et al.*, 05 Civ. 6200 (TPG), a combined total judgment in the amounts of \$1,967,905.62 and €203,205.50 was entered on December 18, 2006 for plaintiffs Ruggero Rossini and Antonietta Giuseppina Brioschi and Raffaele, Rossini, Simonetta Montanari, Claudio Mori, Alfredo Pelli and Graziella Berchi, Giuseppe Silvio Rossini and Marinella Scalvi, Laura Rossini, a true and correct copy of which is attached hereto as Exhibit O.

22. In *Klein, et al. v. Republic of Argentina*, 05 Civ. 6599 (TPG), a combined total judgment for \$1,849,567.92 was entered on June 1, 2007 for plaintiffs Adriano Bettinelli, Ruggero Rossini and Antonietta Giuseppina Brioschi, a true and correct copy of which is attached hereto as Exhibit P.

23. In *Lovati v. Republic of Argentina*, 05 Civ. 8195 (TPG), a judgment for \$40,058,221.90 was entered on January 11, 2007 for plaintiff Sergio Lovati, a true and correct

copy of which is attached hereto as Exhibit Q.

24. In *Botti, et al. v. Republic of Argentina*, 05 Civ. 8687 (TPG), a combined total judgment in the amounts of \$764,334.50 and €134,158.68 was entered on January 16, 2007 for plaintiffs Alberto Baciucco, Otello Baciucco, Emanuele Botti, Giovanni Botti and Maria Ziliani, a true and correct copy of which is attached hereto as Exhibit R.

25. In *Pasquali, et al. v. Republic of Argentina*, 05 Civ. 10636 (TPG), a judgment for \$41,880.44 was entered on January 16, 2007 for plaintiff Carlo Farioli, a true and correct copy of which is attached hereto as Exhibit S.

26. In *Beyer, et al. v. Republic of Argentina*, 07 Civ. 00098 (TPG), a combined total judgment in the amounts of \$488,233.92 and €113,61/8.67 was entered on December 26, 2007 for plaintiffs Pier Luigi Lucibello Piani and Franco Trentin and Stefania Trentin, a true and correct copy of which is attached hereto as Exhibit T.

27. In *Borgra, et al. v. Republic of Argentina*, 07 Civ. 5807 (TPG), a combined total judgment for \$223,315.18 was entered on April 7, 2008 for plaintiffs Marco Borgra and Sergio Borgra, and Marco Borgra and Donatella Fragonara Zanotti, a true and correct copy of which is attached hereto as Exhibit U.

28. The total amounts owed to the Italian Judgment Creditors are \$98,436,495.51 and €1,027,523.85, excluding post-judgment interest, which continues to accrue.

29. The Republic has steadfastly frustrated any attempt made by the Italian Judgment Creditors to collect on these judgments, choosing instead to lump the Italian Judgment Creditors in with the so-called “vulture funds” despite the dissimilarities between the two groups.

30. Attached hereto as Exhibit V is a true and correct copy of the Memorandum of

Law in Support of the Motion of BNY Mellon for Clarification of Amended February 23, 2013
Orders dated July 10, 2014, filed in *NML v. The Republic of Argentina*, 1:08-cv-06978-TPG.

31. Attached hereto as Exhibit W is a true and correct copy of the Order dated August 6, 2014, filed in filed in *NML v. The Republic of Argentina*, 1:08-cv-06978-TPG.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
August 7, 2014



ANTHONY J. COSTANTINI